

NOT INCLUDED
IN BOUND VOLUMES

HJMc
El Centro, CA

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

STG INTERNATIONAL, INC.
Employer

and

Case 21-RC-097525

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND
HELPERS, LOCAL UNION NO. 542, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS
Petitioner

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board, by a three-member panel, has considered objections to a mail ballot election, in which the ballots were mailed to voters on April 25, 2013 and counted on May 13, 2013, and the Acting Regional Director's report recommending disposition of them. The election was conducted pursuant to a Decision and Direction of Election. The tally of ballots shows 9 for and 3 against the Petitioner, with 1 void ballot and 3 challenged ballots, an insufficient number to affect the results.

The Board has reviewed the record in light of the Employer's exceptions and brief, has adopted the Acting Regional Director's findings and recommendations, and finds that a certification of representative should be issued.¹

¹ At the time of the Decision and Direction of Election, the composition of the Board included two persons whose appointments to the Board had been challenged as constitutionally infirm. On June 26, 2014, the United States Supreme Court issued its decision in *NLRB v. Noel Canning*, 134 S.Ct. 2550 (2014), holding that the challenged appointments to the Board were not valid. In view of the decision of the Supreme Court

CERTIFICATION OF REPRESENTATIVE

in *NLRB v. Noel Canning*, supra, we have considered de novo the Employer's arguments in support of its Request for Review of the Regional Director's Decision and Direction of Election, and we find them without merit. Accordingly, we deny the Request for Review in the prior proceeding as it raises no substantial issues warranting review.

In denying review of the Regional Director's Decision and Direction of Election, we reject the Employer's argument (also preserved in its Objections and exceptions to the Report on Objections) that the petition should be dismissed because the Regional Director had no authority to process representation petitions if the Board lacked a quorum. The authority of a Regional Director to act in representation case proceedings is derived from a 1961 delegation from the Board, and that delegation has never been revoked. Thus, the Regional Director was fully empowered to process the representation petition and conduct the election in this matter without regard to the presence or absence of a Board quorum. See *Fused Solutions, LLC*, 362 NLRB No. 95, slip op. at 2 (2015), citing *Mission Produce*, 362 NLRB No. 15, slip op. at 1 (2015) and *Durham School Services, LP*, 361 NLRB No. 66 (2014).

We further find the Employer's contention that the appointment of Olivia Garcia as Regional Director for Region 21 is invalid because it was made on January 6, 2012, when the Board lacked a quorum, to be without merit. Although Regional Director Garcia's appointment was announced on January 6, 2012, the Board approved the appointment on December 22, 2011, at which time it had a valid quorum. See *Mathew Enterprise, Inc. v. NLRB*, 771 F.3d 812, 813 (D.C. Cir. 2014) ("[T]he President's recess appointment of Member Becker . . . was constitutionally valid."); *Gestamp South Carolina, LLC v. NLRB*, 769 F.3d 254, 257-258 (4th Cir. 2014) (same).

We next consider the question whether the Board can rely on the results of the election. For the reasons stated in *Panera Bread*, 361 NLRB No. 142, slip op. at 1-2 (2014), we find that the election was properly held and the tally of ballots is a reliable expression of the employees' free choice.

Finally, we find that the Acting Regional Director properly dismissed the objections, including the objections based on a challenge to the Regional Director's representation that permission was sought but not forthcoming from Immigration and Customs Enforcement to allow the Region to hold the election anywhere on ICE's premises, including the parking lot. In the circumstances of this case, we have no reason to doubt the Regional Director's representation. We also note that ICE's position was corroborated by an independent source. See email from counsel for the prime contractor InGenesis, dated Wednesday, April 03, 2013 8:29 AM, reprinted at Attachment A to Employer's Exceptions To Regional Director's Report On Objections ("....unfortunately the government will not give permission to hold the election on the premises. I believe the Board will have to make arrangements to have the election off-site.") (emphasis added).

IT IS CERTIFIED that a majority of the valid ballots have been cast for the Teamsters, Chauffeurs, Warehousemen and Helpers, Local Union No. 542, International Brotherhood of Teamsters, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time professional and nonprofessional employees, including registered nurses, physicians, dentists, psychologists, administrative assistants, dental assistants, licensed practical nurses, medical records technicians and pharmacy technicians, employed by the Employer and working at the Immigration and Customs Enforcement Agency's El Centro Services Processing Center, located at 1115 North Imperial Avenue, El Centro, California; excluding all other employees, guards, and supervisors as defined in the Act.

Dated, Washington, D.C., June 22, 2015.

Kent Y. Hirozawa,	Member
Harry I. Johnson, III,	Member
Lauren McFerran,	Member

[SEAL]

NATIONAL LABOR RELATIONS BOARD